

AMENDED IN SENATE APRIL 10, 2014
AMENDED IN SENATE MARCH 28, 2014
AMENDED IN SENATE MARCH 17, 2014

SENATE BILL

No. 994

Introduced by Senator Monning

February 12, 2014

An act to add Section 9957 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 994, as amended, Monning. Vehicles: vehicle information: privacy.

Existing law imposes various requirements upon manufacturers of motor vehicles sold or leased in this state with regard to disclosing information and providing equipment. A violation of these provisions is a crime.

This bill would enact the Consumer Car Information and Choice Act. The bill would require a manufacturer of any new motor vehicle sold or leased in this state that is manufactured on or after January 1, 2016, that *records*, generates, *stores*, or collects vehicle information, as defined, to make certain disclosures to the registered owner regarding the *recordation*, generation, *storage*, and collection of that information. The bill would require the manufacturer to provide the registered owner of the vehicle with access to the vehicle information and the ability to securely transmit that information to a 3rd party selected by the registered owner, as specified. *The bill would require the manufacturer to provide the registered owner with the ability to opt out of the recording, generation, storage, or collection of vehicle information, except as specified.* The bill would prohibit a manufacturer from

limiting, impairing, or otherwise restricting, ~~by any means,~~ the ability of the registered owner to access, ~~use, or transmit~~ his or her vehicle information, and would further prohibit the manufacturer from taking any adverse action against the registered owner for accessing ~~or using~~ ~~or transmitting~~ his or her vehicle information, as specified. The bill would prohibit vehicle information from being downloaded, ~~transmitted,~~ ~~or received by a person other than~~ *or otherwise retrieved from the motor vehicle without the consent of the registered owner, except as specified. The bill would prohibit a manufacturer from conditioning the sale or lease of a vehicle upon receiving consent from the registered owner to allow the manufacturer to sell, release, or otherwise disclose vehicle information to persons other than the registered owner. The bill would provide immunity from liability for manufacturers providing registered owners access to vehicle information, as specified.*

Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Consumer Car Information and Choice Act.
- 3 SEC. 2. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) Today's motor vehicles are equipped with sophisticated
- 6 computers that control everything from comfort and convenience
- 7 features, including air temperature, seat positions, and infotainment,
- 8 to critical safety features, such as air bags and antilock brakes, to
- 9 complex engine systems, such as transmission, fuel, emissions,
- 10 and exhaust systems.
- 11 (2) These computers can *record*, generate, *store*, and collect
- 12 information that is important to consumers about the condition
- 13 and performance of their motor vehicles, including repair,
- 14 maintenance, and diagnostic information.

1 (3) These computers can also *record*, generate, *store*, and collect
2 sensitive personal information about consumers and their driving
3 behaviors, *as well as others in and around the motor vehicle*. For
4 example, motor vehicles can collect precise location information
5 as well as information about where and when consumers have
6 driven their motor vehicles. Motor vehicles can also collect
7 information about how consumers drive, including information
8 about braking, acceleration, speed, and the number of passengers
9 carried. *In some cases, motor vehicles can even collect personal*
10 *information from consumers' mobile phones, such as personal*
11 *contact lists, text messages, and phone conversations.*

12 (4) In 2014, approximately one in five new motor vehicles sold
13 in California will be equipped with systems that can wirelessly
14 transmit consumer vehicle information outside the motor vehicle.
15 By 2025, it is expected that all new motor vehicles sold in
16 California will have wireless data transmission capabilities along
17 with the capacity to generate vast quantities of information about
18 consumers, their driving habits, and the condition and performance
19 of their motor vehicles.

20 ~~(5) It is unclear who has~~ *Until now, the law has not explicitly*
21 *addressed who has* the right to control the dissemination of
22 consumer vehicle information, as there are no uniform standards
23 or policies that address this issue with respect to the broad array
24 of consumer vehicle information that may be shared. Today,
25 consumers have limited ability to access their vehicle information
26 or to transmit their vehicle information from their motor vehicles
27 ~~to service providers of their choice information.~~

28 (6) *Vehicle manufacturers have the technology to give*
29 *consumers secure access to their vehicle information, and some*
30 *manufacturers have deployed this technology to securely exchange*
31 *vehicle information with third parties.*

32 ~~(6)~~
33 (7) ~~Restricting consumers' ability to choose who can access~~
34 ~~information from their motor vehicles reduces competition and~~
35 ~~innovation and access to information from their motor vehicles~~
36 ~~negatively affects consumers' ability to select the services they~~
37 ~~prefer and realize the full value of the motor vehicles they own or~~
38 ~~lease and make important choices about their privacy.~~

39 (b) It is therefore the intent of the Legislature ~~to create a uniform~~
40 ~~policy that ensures to ensure~~ that consumers are clearly informed

1 of the kinds of information their motor vehicles *record*, generate,
2 *store*, and collect about them, including information about their
3 driving habits and the condition of their motor vehicles. It is also
4 the intent of the Legislature that consumers ~~are given more choice~~
5 *retain control* over who can access ~~and use this information from~~
6 ~~their motor vehicles as well as rights to securely transmit this~~
7 ~~information from their motor vehicles to service providers of their~~
8 ~~choice.~~

9 SEC. 3. Section 9957 is added to the Vehicle Code, to read:

10 9957. (a) This section applies to all motor vehicles
11 manufactured on or after January 1, 2016.

12 (b) A manufacturer of a new motor vehicle sold or leased in
13 this state that *records*, generates, *stores*, or collects vehicle
14 information shall do all of the following:

15 (1) Disclose that the motor vehicle *records*, generates, *stores*,
16 or collects vehicle information and describe ~~the types~~ *each of the*
17 *categories* of vehicle information *recorded*, generated, *stored*, or
18 collected by the motor vehicle, *as well as the duration of the*
19 *recording, collection, or storage*, in a plainly written statement
20 included in the owner's manual for the motor vehicle.

21 (2) Provide a copy of the statement described in paragraph (1)
22 in a separate document printed in no less than 12-point type to the
23 prospective registered owner of the new motor vehicle prior to the
24 purchase or lease of the vehicle.

25 (3) Include in the statement included in the owner's manual
26 pursuant to paragraph (1) and the statement contained in the
27 separate document described in paragraph (2) the following
28 statement in 14-point bold type:

29
30 “THIS MOTOR VEHICLE *RECORDS*, GENERATES ~~AND~~,
31 *STORES*, OR COLLECTS INFORMATION ABOUT YOU, HOW
32 YOU DRIVE, AND THE CONDITION OF YOUR MOTOR
33 VEHICLE. UNDER CALIFORNIA LAW, YOU HAVE THE
34 RIGHT TO ~~CHOOSE WHO CAN ACCESS THIS~~
35 *INFORMATION AND TO OPT OUT OF THE COLLECTION*
36 *OF THIS INFORMATION IN MOST CIRCUMSTANCES. YOU*
37 *ALSO HAVE THE RIGHT TO CONSENT TO WHO MAY*
38 *RETRIEVE THIS INFORMATION FROM YOUR MOTOR*
39 ~~VEHICLE.”~~ *VEHICLE. BEFORE ALLOWING YOUR VEHICLE*
40 *MANUFACTURER TO SHARE YOUR INFORMATION WITH*

1 *THIRD PARTIES, YOU SHOULD CAREFULLY REVIEW EACH*
2 *PARTY'S PRIVACY POLICY."*

3
4 (4) Affix the statement described in paragraph (3) securely in
5 a clear and conspicuous manner to the side window or windshield
6 of the new motor vehicle.

7 (c) A manufacturer of a new motor vehicle sold or leased in this
8 state that *records*, generates, *stores*, or collects vehicle information
9 shall provide the registered owner of the motor vehicle with all of
10 the following:

11 (1) Access from the motor vehicle to the vehicle information
12 *as the vehicle information is recorded, generated, stored, or*
13 *collected by the motor vehicle.*

14 ~~(2) Fair and reasonable access~~ Access to tools and information
15 reasonably necessary to ~~use~~ *access* the vehicle information.

16 ~~(3) The ability to securely transmit the vehicle information~~
17 ~~outside the motor vehicle to any person selected by the registered~~
18 ~~owner of the motor vehicle.~~

19 ~~(A) The manufacturer shall not impose any fees or charges on~~
20 ~~a registered owner to make transmissions of vehicle information~~
21 ~~pursuant to this paragraph.~~

22 ~~(B) The manufacturer shall provide fair, nondiscriminatory, and~~
23 ~~reasonable means for persons selected by the registered owner in~~
24 ~~accordance with this paragraph to receive the vehicle information~~
25 ~~in a standard, usable format.~~

26 ~~(C) If the motor vehicle is equipped with a telematics system,~~
27 ~~the manufacturer shall provide the registered owner with the ability~~
28 ~~to use the telematics system to securely transmit vehicle~~
29 ~~information in accordance with this paragraph and shall provide~~
30 ~~fair, nondiscriminatory, and reasonable means for persons selected~~
31 ~~by the registered owner in accordance with this paragraph to~~
32 ~~securely access the telematics system to provide remote services~~
33 ~~that are requested by the registered owner.~~

34 (3) *Manufacturers may provide the access required under*
35 *paragraph (2) for purchase on fair and reasonable terms. In*
36 *determining whether terms are fair and reasonable, consideration*
37 *may be given to relevant factors, including, but not limited to, the*
38 *following:*

1 (A) *The net cost to the manufacturer's franchised dealerships*
2 *for similar information obtained from manufacturers, less any*
3 *discounts, rebates, or other incentive programs.*

4 (B) *The cost to the manufacturer for preparing and distributing*
5 *the information, excluding any research and development costs,*
6 *provided that the amortized capital costs for the preparation and*
7 *distribution of the information may be included.*

8 (C) *The price charged by other manufacturers for similar*
9 *information.*

10 (D) *The ability of aftermarket technicians, shops, and other*
11 *small businesses to afford the information.*

12 (E) *The means by which the information is distributed.*

13 (F) *The extent to which the information is used, which includes*
14 *the number of users, frequency, duration, and volume of use.*

15 (G) *Inflation.*

16 (4) *The ability to opt out of the recording, generation, storage,*
17 *or collection of vehicle information other than vehicle information*
18 *necessary for the repair or maintenance of the motor vehicle or*
19 *for motor vehicle safety. A manufacturer may not deny any service*
20 *or benefit to a registered owner for exercising his or her opt-out*
21 *rights under this paragraph, unless the service or benefit is*
22 *technically dependent on the vehicle information that is no longer*
23 *recorded, generated, stored, or collected due to the registered*
24 *owner's choice to opt out.*

25 (d) A manufacturer shall not limit, impair, or otherwise restrict;
26 ~~by any means, the ability of a registered owner to access, use, or~~
27 ~~transmit his or her vehicle information. A manufacturer shall not~~
28 ~~take any adverse action against a registered owner for accessing~~
29 ~~or using his or her vehicle information or transmitting his or her~~
30 ~~vehicle information outside the motor vehicle to a person other~~
31 ~~than the manufacturer or obtaining services that use vehicle~~
32 ~~information from a person other than the manufacturer. or take~~
33 *any adverse action, including the denial of any service or benefit,*
34 *against a registered owner for accessing his or her vehicle*
35 *information. This paragraph shall not be construed to prevent the*
36 *adoption of security protocols to protect against unauthorized*
37 *access to vehicle information.*

38 (e) Vehicle information shall not be downloaded or ~~transmitted~~
39 ~~outside the motor vehicle or otherwise retrieved from the motor~~
40 ~~vehicle by a person other than~~ *without the consent of the registered*

owner of the motor vehicle, except under one of the following circumstances:

~~(1) A registered owner of the motor vehicle consents to the download, transmission, or retrieval of his or her vehicle information.~~

~~(2)~~

~~(1) The vehicle information is downloaded, transmitted, or retrieved by the manufacturer of the motor vehicle. The manufacturer shall not release sell, release, or otherwise disclose the vehicle information received pursuant to this paragraph to any person other than the registered owner of the motor vehicle, unless that vehicle information is in a form that cannot be used to identify the manufacturer obtains the consent of the registered owner or driver of the motor vehicle.~~

~~(3)~~

~~(2) The vehicle information is downloaded, transmitted, or retrieved for the purpose of diagnosing, servicing, or repairing a motor vehicle at the request of the registered owner or driver of that motor vehicle. The recipient of vehicle information under this paragraph shall not sell, release, or otherwise disclose the vehicle information to any person other than the registered owner of the motor vehicle unless the recipient obtains the consent of the registered owner.~~

~~(4) For purposes of improving motor vehicle safety, including for medical research of the human body's reaction to motor vehicle accidents, provided that the identity of the registered owner or driver is not disclosed in connection with that retrieved information. The disclosure of the vehicle identification number (VIN) for purposes of improving vehicle safety, including for medical research of the human body's reaction to motor vehicle accidents, does not constitute the disclosure of the identity of a registered owner or driver for purposes of this paragraph. A person authorized to download or otherwise retrieve vehicle information pursuant to this paragraph shall not release that vehicle information, except to share that information among the motor vehicle safety and medical research communities to advance motor vehicle safety, and only if the identity of the registered owner or driver is not disclosed.~~

~~(3) The vehicle information is communicated to another motor vehicle or transportation infrastructure through vehicular~~

1 *communication networks for purposes of traffic management or*
2 *motor vehicle safety.*

3 ~~(5)~~

4 (4) In response to an order of a court having jurisdiction to issue
5 the order *under applicable standards of criminal and civil law.*

6 (f) *A manufacturer may not condition the sale or lease of a*
7 *motor vehicle upon receipt of consent from the registered owner*
8 *of the motor vehicle to allow the manufacturer to sell, release, or*
9 *otherwise disclose vehicle information to persons other than the*
10 *registered owner.*

11 ~~(f)~~

12 (g) A registered owner of a motor vehicle shall not be compelled
13 to access, download, or retrieve vehicle information from the motor
14 ~~vehicle or transmit vehicle information outside the motor vehicle~~
15 *vehicle*, except pursuant to an order of a court having jurisdiction
16 to issue the order *under applicable standards of criminal or civil*
17 *law* or as otherwise required by law.

18 (h) *This section shall not be construed to change, expand, or*
19 *diminish the existing authority of law enforcement.*

20 ~~(g)~~

21 (i) This section shall not be construed to require a manufacturer
22 of a motor vehicle to disclose any trade secret.

23 ~~(h) This section does not relieve manufacturers of the duty to~~
24 ~~create secure telematics, computer, and other electronic systems~~
25 ~~in the motor vehicles they manufacture, including the duty to~~
26 ~~prevent unauthorized access into these systems.~~

27 ~~(i)~~

28 (j) This section does not supersede or modify *any provisions of*
29 *the Insurance Code or any regulations promulgated thereunder;*
30 *including, but not limited to,* the provisions of Section 2632.5 of
31 Title 10 of the California Code of Regulations concerning
32 automobile insurance rating factors.

33 (k) *A manufacturer of a motor vehicle shall have no liability*
34 *for any acts or omissions of a registered owner of the motor vehicle*
35 *as a result of the manufacturer providing the registered owner*
36 *access to vehicle information pursuant to this section.*

37 (l) *This section shall not be construed to require the recording,*
38 *generation, storage, or collection of vehicle information.*

39 ~~(j)~~

(m) For purposes of this section, “vehicle information” means any and all data that is *recorded*, generated, *stored*, or collected by a motor vehicle through a computer or other device embedded or integrated into a motor vehicle, *other than an event data recorder governed under Section 9951 and Part 563 of Title 49 of the Code of Federal Regulations*, that can be used, either alone or with other information, to distinguish or individually identify the registered owner of a motor vehicle, the driver of a motor vehicle, or the operation, use, or condition of a motor vehicle. “Vehicle information” includes, but is not limited to, all of the following *when that information is recorded, generated, stored, or collected by a motor vehicle through a computer or other device embedded or integrated into a motor vehicle, other than an event data recorder governed under Section 9951 and Part 563 of Title 49 of the Code of Federal Regulations*:

(1) The name, address, email address, and telephone number of the registered owner or driver of the motor vehicle and the motor vehicle’s vehicle identification number. *This paragraph shall not be construed to restrict the ability of law enforcement to collect the information described in this paragraph from a registered owner of a motor vehicle even if the information is also recorded, generated, stored, or collected by the motor vehicle.*

(2) Speed, distance, braking, acceleration, steering, seat-belt use, air bag deployment, collision, accident, geolocation, time-of-day driven, miles driven, duration driven, driving style, fuel, tire pressure, passenger, battery, door lock, and odometer information, sensor data, subsystem data, and diagnostic trouble codes.

~~(k)~~

(n) For purposes of this section, “registered owner” means a registered owner as defined in Section 505 and, in the case of a leased vehicle, the lessee as shown on the registration card for the leased vehicle.

~~(l) For purposes of this section, the term “telematics system” means a system that allows the transmission of data to and from the motor vehicle using one or more embedded or mobile communication devices that connect to telecommunications networks, including, but not limited to, wireless and landline communication networks and global positioning system satellites.~~

1 SEC. 4. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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